

Remarks

Reconsideration and allowance of this application, as amended, are respectfully requested.

The final Office Action of June 2, 2008, indicated that claims 1-7 and 10 were allowed. Accordingly, in Applicants' Amendment Under 37 CFR § 1.116 filed October 1, 2008, relying upon the final Office Action, Applicants amended the claims solely to expedite allowance of the application. Claims 11-21 were canceled without prejudice or disclaimer. (Claims 8 and 9 had been previously canceled; claims 11-14 were pending; claims 15-21 were pending but had been withdrawn from consideration as directed to a constructively non-elected invention.)

In the new non-final Office Action, the examiner withdraws the allowance and applies a new combination rejection under 35 U.S.C. § 103(a) based upon a tertiary reference.

Accordingly, in the present Amendment, the claims have been amended. New claims 22-25 corresponding to previously presented claims 11-14 have been added to the application. Claims 1-7, 10, and 22-25 are now pending in the application. Claims 1 and 22 are independent. Entry of each of the amendments is respectfully requested.

35 U.S.C. § 103(a) - Kitao, Watanabe, and Aubry

Claims 1-7 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,195,964 to Kitao and

U.S. Patent No. 5,139,346 to Watanabe et al. (hereinafter "Watanabe") and further in view of U.S. Patent No. 4,708,705 to Aubry et al. ("Aubry").

The rejection of claims 1-7 and 10 under § 103(a) based on Kitao, Watanabe, and Aubry is respectfully traversed. The examiner now relies upon the disclosure of Aubry to rectify the deficiencies of Kitao and Watanabe noted in Applicants' previous replies. For at least all of the reasons presented in Applicants' previous replies and for the following reasons, the combined disclosures of Kitao, Watanabe, and Aubry would not have rendered obvious Applicants' claimed invention.

Claim 1 defines a process in which a bag is manufactured from a single film web and in which "at least one part of the four seams of the film tube [is] formed by a joining process in which additional adhesive or extrudate joining material is applied on the seam, and sealing the connected film segments so as to form at least one sealed end of the bag." As indicated in Applicants' Amendment Under 37 CFR § 1.111 filed April 6, 2007, the advantage of using Applicants' claimed single film web is that only a single film roll is required for the production of a film tube having four outer walls. Using only a single film roll reduces transport costs and makes it possible to easily vary the width of the walls of the bag.

Kitao discloses a process for forming an inner bag for loading into a cylindrical container. A moisture curing resin is

then loaded into the inner bag. The inner bag consists of two hexagonal and two pentagonal sheets (polymer foils) that are bonded together by a *heat sealing* process.

As explained in Applicants' Amendment Under 37 CFR § 1.111 filed March 20, 2008, Watanabe discloses a process for manufacturing a flexible container for granules. The container is made of three rectangular main sheets, an inlet sheet, and an outlet sheet. The aforementioned sheets are first formed from a longitudinal raw material, and afterwards, the outer side edges of the sheets are **sewn** together in a container form-like manner.

Aubry discloses using an adhesive material to *reinforce* edge areas in conjunction with a tubing operation. More specifically, Aubry teaches that "the adhered edges are then folded over on each other in a tubing operation such that the adhered edges overlap each other; they in turn are then secured together in an overlapping configuration" (column 2, lines 14-18).

Returning to Watanabe, the *entire* patent teaches joining edges of sheets by **sewing** the sheets together. In describing problems associated with prior art techniques, Watanabe discloses that

in fabricating the flexible container of the above described construction, the main body, the inlet portion and the outlet portion respectively formed in a cylindrical shape are *sewed* together. However, they are all in a three-dimensional shape, so that the above *sewing* work is performed in a three-dimensional manner. Accordingly, it is very difficult to mechanize the above *sewing* work. Consequently, the above *sewing* work depends

on hand work in the present condition. However, such work requires a lot of labor (column 1, lines 24-33).
(Emphasis added)

Therefore, in summarizing his invention as a solution to the above-quoted prior art problems, Watanabe discloses that

a method of fabricating a flexible container according to the present invention comprises a first step of forming three or more approximately rectangular main sheets out of a longitudinal raw material sheet; a second step of setting an imaginary line passing through approximately the central part in the width direction of each of the above main sheets to dispose a rectangular inlet sheet and outlet sheet on the imaginary line, *sewing* one end of each of the inlet sheet and the outlet sheet in the direction along the above imaginary line to an end of the main sheet corresponding to the one end, and projecting the other end of each of the inlet sheet and the outlet sheet away from the main sheet in the direction along the above imaginary line; a third step of respectively folding assembly sheets each constituted by the above three types of sheets along the imaginary lines so that outwardly folding lines of the assembly sheets due to the folding conform to one another and the surfaces of the adjacent assembly sheets on the side of the outwardly folding lines are joined to each other; and a fourth step of *sewing* outer side edges of the above adjacent assembly sheets together (column 1, line 57, through column 2, line 10).

The fact that Watanabe teaches joining the edges of sheets *only by sewing* the sheets together cannot simply be ignored by the examiner in determining the patentability of the present invention. Legal authority requires that the disclosure of Watanabe be considered as *a whole, including those parts of the disclosure that teach away from Applicants' claimed invention.*

Therefore, one reason that the combined disclosures of Kitao, Watanabe, and Aubry would not have rendered obvious

Applicants' claimed invention is that a person skilled in the art would not have combined the teachings of these references. The three aforementioned references are directed to different technical fields. Kitao is directed to an inner bag for loading into a cylindrical container (see Kitao's Figures 6a-6e). Watanabe is directed to a flexible container such as might be used for "transporting granules in large quantities" (see Watanabe's Figure 11). Bags of the type described in Watanabe have typically been *formed* as a cylindrical shape. Therefore, the sewing work was performed by hand because the sewing in a three-dimensional manner was difficult to mechanize (column 1, lines 24-33). Aubry is directed to a "method of reinforcement using layers of extruded adhesive resins" (column 1, lines 10-11). However, there would be, for example, no reason to use Aubry's adhesive layer in Watanabe's container because the container to transport granules in large quantities requires the *sewn* seams.

Another reason is that the disclosure of Watanabe does in fact *teach away* from Applicants' claimed invention. Watanabe teaches joining the edges of sheets only by *sewing* the sheets together. Applicants' claimed process includes "at least one part of the four seams of the film tube being formed by a *joining process in which additional adhesive or extrudate joining material is applied on the seam, and sealing the connected film segments so as to form at least one sealed end of the bag.*"

And, even assuming *arguendo* that a person skilled in the art did combine the teachings of Kitao, Watanabe, and Aubry, the result certainly would not be any of the various embodiments of Applicants' claimed invention. Applicants' invention is directed to the field of "Form, Fill and Seal" machines and bags (specification page 1). Therefore, Applicants' claimed process includes not only the step of "connecting the four film segments to form a film tube having four outer walls that are connected respectively by four seams, at least one part of the four seams of the film tube being formed by a joining process in which additional adhesive or extrudate joining material is applied on the seam," but of "sealing the connected film segments *so as to form at least one sealed end of the bag.*" The asserted combination of references fails to teach each of the above-quoted steps.

Therefore, the combined disclosures of Kitao, Watanabe, and Aubry would not have rendered obvious the invention defined by claim 1. Claims 2-7 and 10 are allowable because they depend, either directly or indirectly, from claim 1, and for the subject matter recited therein.

New claims 22-25, which corresponding to previously presented claims 11-14 (see claims 11-14 in Applicants' Amendment Under 37 CFR § 1.111 filed March 20, 2008), are allowable for at least all of the reasons presented in Applicants' previous replies. Claim 22 defines "[a] tubular film roll comprising a film tube having four side walls cut from a single film web and four

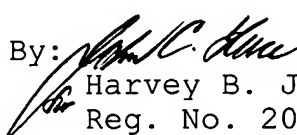
corresponding seams that join each of the four side walls to an adjacent side wall, each of the seams including an applied layer of extruded heated adhesive located on an edge of each of the side walls." Claims 23-25 are allowable because they depend from claim 22, and for the subject matter recited therein.

The provisional rejection of claim 1 under nonstatutory obviousness-type double patenting over claims 21 and 22 of U.S. Application No. 10/545,687 (the "'687 application") is respectfully traversed. Claim 21 of the '687 application does not even recite each of the steps defined in instant claim 1, including the claimed step of "sealing the connected film segments so as to form at least one sealed end of the bag." Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that an interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By:  Reg. No. 34,378
Harvey B. Jacobson, Jr.
Reg. No. 20,851

400 Seventh Street, N. W.
Washington, D.C. 20004
Telephone: (202) 638-6666
Date: April 24, 2009